

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9580 of 1998

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

THAKARSI BHURAJI THAKOR

Versus

STATE OF GUJARAT

Appearance:

MR EE SAIYED for Petitioner

MS PUNANI AGP for Respondent No. 1, 2, 3

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 20/07/1999

ORAL JUDGEMENT

Heard the learned advocates for the respective parties.

The petitioner challenges the order of preventive detention dated 30th October, 1998, made by the District Magistrate, Banaskantha, under the powers conferred upon him under sub-section (1) of section 3 of the Gujarat

Prevention of Anti Social Activities Act, 1985
(hereinafter referred to as 'the Act').

It is alleged that the petitioner is a 'dangerous person' within the meaning of section 2 (c) of the Act, and his activities are prejudicial to the maintenance of public order. The Detaining Authority has relied upon the factum of three criminal cases pending against the petitioner for trial, and has also relied upon the statements made by the witnesses, whose names and other particulars are withheld. In all the aforesaid criminal cases, the petitioner has been released on bail. It appears that last of the offences is registered against the petitioner on 24th April, 1998, and the statements of the witnesses were recorded in the month of May and July 1998. The verification was also made on 25th July, 1998. However, the order of detention has been made a long time thereafter i.e. three months thereafter. This delay in making the order of detention has not been explained in any manner. In the circumstances, it must be held that the order of detention has no proximity with the grounds of detention. The order is, therefore, vitiated on that ground alone.

Petition is, therefore, allowed. The impugned order dated 30th October, 1998 (Annexure-A to the petition) is quashed and set aside. Rule is made absolute. The petitioner, unless is required to be detained in some other case, be released forthwith.

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JOSHI